

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Douglas E. McVay,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-07-1535
Parcel No. 8814-34-226-006

On February 22, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Douglas E. McVay requested his appeal be considered at a telephone hearing. He was self-represented. Assistant County Attorney David Mason was counsel for the Black Hawk County Board of Review. County Assessor Tami A. McFarland provided evidence on behalf of the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Douglas E. McVay, owner of property located at 428 Primrose Drive, Hudson, Iowa, appeals from the Black Hawk County Board of Review decision reassessing his property. According to the property record card, the subject property is a two-story, frame dwelling built in 1992 with 2498 square feet of total living area, which includes two one-story frame additions of 80 square feet and 384 square feet. The dwelling also has a 947 square-foot basement with 900 square feet of living-quarters finish, a 24 square-foot open porch, and a 309 square-foot wood deck. It has a 768 square-foot, three-car, attached garage. The dwelling has a high quality grade (2-10) and is in normal condition. The property is situated on a 0.579 acre site.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$310,260, representing \$49,140 in land value and \$261,120 in dwelling value.

McVay protested to the Board of Review on the ground that the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). It is also clear that McVay's protest was also based on a claim the property is assessed for more than authorized by law under section 441.37(1)(b) because of the documents he provided to the Board of Review. The Board of Review denied the protest.

McVay then filed his appeal with this Board and claimed the same grounds. He claimed the actual value of the property was \$273,276, allocated \$41,820 to land value and \$231,456 to dwelling value. McVay arrived at this figure by taking his 2010 assessment and reducing it by 6 %, which he believed was consistent with the reduction of neighboring properties. He prepared an exhibit showing the assessed values of all fifty-two properties in the Glenwood Chase subdivision were reduced with three exceptions. One dwelling had an addition in 2010, which increased the value by 3.2%; another property was a foreclosure and was increased 47%; and the subject property which was increased 6.7%. The average reduction of all properties that had reduced assessments was 6.1%, and the average of those in the \$260,000 to \$320,000 price range was 6.0%.

McVay purchased the property in April 2007, for \$269,900. He provided two appraisals. The first was for mortgage financing at the time of purchase in April 2007. The appraisal was completed by Judy Kay Burr of Professional Real Estate Services, Waterloo, Iowa. Burr concluded a value of \$278,000 using the sales approach, more than \$8000 over McVay's 2007 purchase price. The second appraisal was for mortgage refinancing in May 2009. The appraisal was completed by Gail A. Widmann of McRae Appraisals, Inc. Cedar Falls, Iowa. Widmann concluded a value of \$273,000 using the sales approach, which was roughly \$18,000 lower than McVay's 2009 assessment. Because both of these appraisals are dated, we give them limited consideration for the 2011 assessment date.

McVay testified the Board of Review reduced his 2007 assessment; however, a state equalization order counterbalanced its reduction by increasing the assessment 7%. He failed to protest the increase caused by the equalization order.

McVay also testified Deanna Weller, who he describes as a top Cedar Valley realtor with Remax, reports only a 1% to 3% increase in local home values in the last four to six years to support his request for a reduction.

Deputy Assessor T.J. Koenigsfeld testified on behalf of the Board of Review. Koenigsfeld testified the Board of Review reduction to McVay's property in 2007 was accomplished by an 11% downward adjustment for obsolescence. He reported the state equalization order then increased the subject property's assessment. Koenigsfeld indicated, as part of the countywide revaluation in 2011, all prior obsolescence was removed to make the assessments equitable, the values were then reset to the base cost manual level. He noted only one of McVay's equity comparables had sold and that was in 2002. Additionally, it was a dissimilar one-story, and had a lower quality grade with less total living area. These issues eliminate it from serving as a indication of value for the subject. He points out the dissimilarities between the comparables used in the 2007 and 2009 appraisals and the subject property, including dwelling style, total living area, and quality grade. For these and the previously noted comments, the appraisals are not persuasive evidence.

Assessor Tami A. McFarland did not testify at hearing, but submitted correspondence in February 2012, regarding a 2010 and 2011 sale. Both were two-story dwellings in the subject's neighborhood. The properties were roughly ten years newer than the subject, had more total living area, had more basement finish, and had larger sites. The unadjusted sale prices per square foot were \$119.19 and \$126.32 respectively, as compared to the subject assessment of \$124.20 per square foot. We note the subject property's assessment falls within the range of the unadjusted sale prices per-

square foot. However, since there are significant differences among the properties and no adjustments were made, we question the reliability of this comparison.

Reviewing all the evidence, we find that the preponderance of the evidence does not support the McVay's claim of inequitable assessment as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

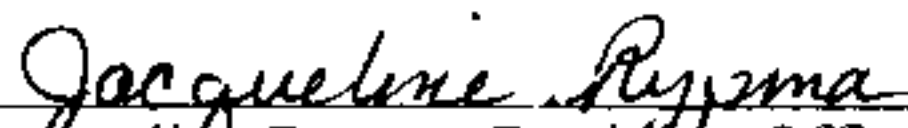
Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). McVay failed to prove inequity under either *Eagle Food* or *Maxwell*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Because McVay’s appraisals were dated, they were insufficient to prove his over-assessment claim.

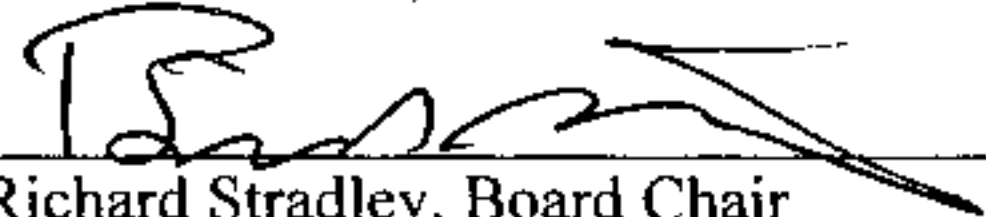
Viewing the record as a whole, we determine that the preponderance of the evidence does not support McVay’s claims of inequity or over-assessment in the January 1, 2011, assessment. Therefore, we affirm the property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2011, is \$310,260, representing \$49,140 in land value and \$261,120 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Black Hawk County Board of Review is affirmed.

Dated this 30 day of April 2012.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>4-30</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	